

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Report to Congress Regarding the	)	IB Docket No. 12-19
ORBIT Act	)	

**REPLY COMMENTS OF SES S.A.**

SES S.A. (“SES”)<sup>1</sup> hereby replies to the comments of other parties filed in response to the International Bureau’s Public Notice<sup>2</sup> in the above-captioned proceeding concerning the Commission’s annual report to Congress required by the Open-Market Reorganization for the Betterment of International Telecommunications Act (“ORBIT Act”).<sup>3</sup>

SES makes no comment on the impact of privatization of INTELSAT and Inmarsat pursuant to the ORBIT Act. Instead, SES is filing here only to respond to the statements made by ARTEL<sup>4</sup> in this proceeding concerning SES. The ARTEL Comments mischaracterize the findings of the Commission’s recent report on the status of fixed satellite

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<sup>1</sup> SES is the ultimate parent company of SES Americom, Inc., SES Satellites (Gibraltar) Limited and New Skies Satellites B.V., each of which hold space and earth station authorizations from the Commission.

<sup>2</sup> International Bureau Information: Report to Congress Regarding the ORBIT Act, Report No. SPB-240, DA 12-82 (Feb. 3, 2012).

<sup>3</sup> Open-Market Reorganization for the Betterment of International Telecommunications Act, Pub. L. 106-180, 114 Stat. 48 (2000), *as amended*, Pub. L. No. 107-233, 116 Stat. 1480 (2002), *as amended*, Pub. L. No. 108-228, 118 Stat. 644 (2004), *as amended*, Pub. L. No. 108- 371, 118 Stat. 1752 (2004), *as amended*, Pub. L. No. 109-34, 119 Stat. 377 (2005).

<sup>4</sup> Comments of ARTEL, Inc., IB Docket No. 12-19, filed March 5, 2012 (“ARTEL Comments”).

services (“FSS”) competition,<sup>5</sup> and refer to statements regarding SES that are not supported by the underlying record in that proceeding.

In the Third Report, the Commission considered evidence presented by the Satellite Industry Association, SES, INTELSAT, and others regarding FSS competition and also reviewed claims by ARTEL and other integrators alleging anti-competitive behavior. The Commission determined that it lacked sufficient information to conclusively decide whether FSS operators face “effective competition”<sup>6</sup> and indicated that it would initiate a follow-on proceeding to explore these matters further.<sup>7</sup>

SES was surprised and disappointed by the outcome of the Third Report. In our view, the record before the Commission in that proceeding amply demonstrated that FSS operators face vibrant and growing competition, and showed that the allegations made by ARTEL and other integrators were unfounded.<sup>8</sup> We were even more shocked to see language in the Third Report that could be read to imply that SES had engaged in any type of collusive or anti-competitive behavior.<sup>9</sup> This suggestion is unsupported by the record, and SES rejects it in

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<sup>5</sup> *In the Matter of Third Report and Analysis of Competitive Market Conditions with Respect to Domestic and International Satellite Communications Services*, Third Report, IB Docket No. 10-99, FCC 11-183 at 17 (released December 13, 2011) (“Third Report”).

<sup>6</sup> *See id.* at ¶ 3. The Commission had made a finding of effective competition in the two prior reports. *See Second Annual Report and Analysis of Competitive Market Conditions with Respect to Domestic & International Satellite Communications Services*, IB Docket No. 07-252, 23 FCC Rcd 15170 (2008) at ¶ 3 (“We find in this *Second Report*, as we did in the *First Report*, that markets for commercial communications satellite services are subject to effective competition, notwithstanding certain changes in the communications satellite industry since release of the *First Report*.”).

<sup>7</sup> Third Report at ¶ 202.

<sup>8</sup> *See, e.g.*, Comments of SES WORLD SKIES, IB Docket No. 10-99, filed Sept. 24, 2010.

<sup>9</sup> *See* Third Report at ¶ 176.

its entirety.<sup>10</sup> If the Commission chooses to expend its resources to conduct a follow-on proceeding regarding these matters, we trust that it will make a point of correcting the misleading statements in the Third Report regarding FSS competition in general and SES in particular.<sup>11</sup>

In its ORBIT Act comments here, ARTEL contributes nothing that would advance the Commission's consideration of these issues. ARTEL simply restates its previous allegations of anti-competitive behavior and selectively quotes from the Third Report, including the Commission's unsupported suggestions regarding SES.<sup>12</sup> Furthermore, ARTEL mischaracterizes the ultimate findings of the Third Report, claiming that the Commission's decision "established" that the FSS market is not "fully competitive,"<sup>13</sup> when in fact the Commission expressly declined to make a finding on FSS competition in the Third Report. ARTEL provides no new information or data to bolster its allegations.

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<sup>10</sup> Contrary to the Commission's assumption (*see id.*), the mere fact that satellite operators occasionally purchase capacity from one another to meet customer service requirements does not mean that rivalry between the operators is somehow diminished. For example, in the case of the Commercial Broadband Satellite Program ("CBSP") raised by the integrators, SES agreed to participate in an INTELSAT bid but explicitly reserved the right to offer its capacity to other CBSP bidders and in fact did provide quotes to such bidders upon request. The existence of the CBSP arrangement certainly did not diminish the fierce competitive rivalry that exists between SES and INTELSAT.

<sup>11</sup> SES will address in detail the many deficiencies in the Third Report if and when the Commission initiates a follow-on proceeding to inquire into alleged anti-competitive behavior.

<sup>12</sup> ARTEL Comments at 5.

<sup>13</sup> *Id.* at 2.

Thus, the ARTEL filing is inaccurate regarding the findings of the Commission's Third Report and relies on language about SES that has no basis in the record. Accordingly, ARTEL's request that the Commission explore imposing new regulations on the FSS industry<sup>14</sup> should be summarily rejected.

Respectfully submitted,

SES S.A.

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<sup>14</sup> *Id.* at 6 (suggesting that the Commission should “adopt affirmative measures” to address the alleged competition issues in the FSS market).